

February 1, 2024

By Email Only

Keith Wilson
Wilson Law Office

Statement of Concern No. 32301
Ember Resources Inc. (Ember)
Application No. 32503777
Location: 09-26-032-26 W4M

Dear Keith Wilson,

You are receiving this letter because you filed a statement of concern (SOC) about Application No. 32503777. The Alberta Energy Regulator (AER) has reviewed your SOC, along with the application, and all applicable requirements and other submissions or information about the application. The AER has decided that a hearing is not required to consider the concerns outlined in your SOC.

In our review of your concerns, we considered the following:

- A Detailed Site Assessment (DSA) was conducted on August 2, 2022, which showed that the conditions of the vegetation, landscape and soil were comparable both onsite and offsite. The DSA indicated that all parameters of the *2010 Reclamation criteria for Wellsites and Cultivated Lands* (Reclamation Criteria) were met.
- The AER acknowledges your concerns around crop yield. A site visit and a limited assessment of both the onsite and offsite crop growth was completed by AER staff on August 15, 2023. It was found that the vegetation parameters measured both on and offsite were comparable and that the site met the Reclamation Criteria. As such, the applied-on portion of the lease, was found to have been returned to equivalent land capability.
- It is the expectation of the AER that operators maintain legal access to their leases through the avoidance of dead-ending access routes. A dead-ending access route is defined as an access road that

that does not lead to another well site or facility or that does not connect with another access road. If the access road was reclamation certified, it would have the effect of dead-ending the access route on the adjacent Ember lease.

- Application No. 32503777 applies for certification of the wellsite only and is not seeking a reclamation certificate for the access road or the temporary workspace. As such, the access route to the other Ember well sites is not being dead ended.
- The access road and the temporary workspace that are not the subject of this reclamation certificate Application No. 32503777 remain “specified land” as it is defined in the *Environmental Protection and Enhancement Act* and regulations. Ember has a duty to reclaim this land and obtain a reclamation certificate pursuant to section 137 of *EPEA*. Thus, this land will be dealt with in a future application.
- Ember has indicated in Application No. 32503777 that it intends to reassign the access road and temporary workspace to another Ember lease located at 11-26-032-26 W4M. Concerns related to surface leases are outside of the AER’s jurisdiction and should be directed to the Alberta Land and Property Rights Tribunal.

Based on the above, the AER has concluded that it is not necessary to hold a hearing before making a decision on the application. The AER has issued the applied-for reclamation certificate and this is your notice of that decision. A copy of the reclamation certificate is attached.

All AER-regulated parties must comply not only with the conditions of their authorizations, but with all of the AER’s regulatory requirements. To ensure industry compliance the AER has developed its *Integrated Compliance Assurance Framework*, which embodies the three main components of all effective compliance assurance programs, those being education, prevention, and enforcement. You can find out more about how the AER verifies industry compliance and responds to noncompliance here: <https://aer.ca/regulating-development/compliance/compliance-assurance-program>.

You may file a regulatory appeal on the AER’s decision to issue the reclamation certificate if you meet the criteria within section 36 of the *Responsible Energy Development Act*. Filing instructions and forms are located here: <https://www.aer.ca/regulating-development/project-application/regulatory-appeal-process>.

If you have any questions, please contact SOC@aer.ca.

Sincerely,

< *Original Signed By* >

Andrew MacPherson
Director, In Situ
Regulatory Applications
/jg

Attachment (1): Reclamation Certificate

cc: Brad Bauer, B&G Bauer Farms Ltd.
Terry Yanke, Ember
SOC Inbox, AER
Zachary McCargar, Reclamation Assessor, AER
Field Operations West, AER